

ASA submission to the ICO: Code of Practice for the use of personal information in political campaigns

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the ‘ASA system.’
- 1.2. The ASA is the UK’s independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 56 years and the broadcast Advertising Code (written and maintained by BCAP) for 14, with our remit further extended in 2011 to include companies’ advertising claims on their own websites and in social media spaces under their control.
- 1.3. We are responsible for ensuring that advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to take action against misleading, harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules remain fit-for-purpose.
- 1.4. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over 389,000 pieces of advice and training in 2017.
- 1.5. The ASA is providing this written submission in response to the Information Commissioner’s Office’s consultation on a Code of Practice for the use of personal information in political campaigns.

2. Consultation Question: We propose the code will include the following broad topic areas:

- **The role of data controllers in the political campaigning ecosystem;**
- **Transparency requirements in practice;**
- **Accountability, security and data minimisation requirements;**
- **Lawful bases including the new ‘democratic engagement’ aspect of the ‘public interest’ basis in the Data Protection Act 2018;**
- **Using special category data;**
- **The use of personal data from the Electoral Register;**
- **Data collection directly from individuals;**
- **Using personal data collected by third parties;**
- **Personal data analytics;**
- **Direct marketing including the application of the Privacy and Electronic Communications Regulations;**
- **Online advertising and the use of social media;**
- **Post political campaign/election considerations.**

Do you agree with the proposed topics?

Tick Yes or No

Please explain your reasoning further:

2.1 The ASA regulates online advertising. This includes companies' and other organisations' own advertising claims on their own websites and social media spaces. We call this online 'advertiser-owned' advertising. For all practical purposes, we do not regulate political advertising. Rule 7.1 of the non-broadcast Advertising Code states that "Claims in marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code". The ASA Council has always applied the "whenever published or distributed" sub-clause to mean that the rule applies whether or not an ad appears in an election or referendum campaign period. Notwithstanding that, as the UK's advertising regulator the ASA would be keen to see what specific rules the ICO's code would be likely to include.

2.2 The ASA is very aware of the current concerns about the absence of regulation in non-broadcast political advertising, and welcomes the ICO's work in this area. We would be happy to be involved in further discussion with the ICO and to contribute our experience of regulating (non-political) online advertising.

Contact

